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- ART. X.—1. *Proceedings of the Royal Colonial Institute.* Vols. 1-21. London, 1869-1890.
2. *Canada: Statistical Year Book of Canada for 1889.* Government of Canada, Ottawa, 1890.
3. *The Old North-West.* By B. A. Hinsdale, Ph.D. New York, 1888.
4. *The Intercolonial Railway. A History, 1832-1876.* By Sandford Fleming, C.E., C.M.G. Montreal, 1876.
5. *Canada since the Union of 1841.* By John Charles Dent. Toronto, 1882.
6. *Canadian Studies in Comparative Politics.* By J. G. Bourinot, C.M.G., D.C.L. Montreal, 1891.
7. *Correspondence respecting the Behring Sea Seal Fisheries, 1886-1890.* Presented to both Houses of Parliament. London, 1890.
8. *Papers of the American Historical Association, 1890.* New York and London.
9. *A Treatise on International Law.* By W. E. Hall, M.A. Third edition. Oxford. At the Clarendon Press, 1890.
10. *Oregon: The Struggle for Possession.* By W. Barrows. Boston, 1884.
11. *History of the United States of America.* By James Schouler. Vols. 1-4. 1783-1847. New York, 1880-1889.
12. *Narrative and Critical History of America.* Edited by Justin Winsor, of Harvard University. Vols. 1-8. Boston and New York, 1889.
13. *Canada and the Canadian Question.* By Goldwin Smith, D.C.L. London, 1891.

THE Canadian people can find some evidence of the growing importance of their Dominion by a reference to the official documents of the United States for several years past. When the Fishery question was under consideration in 1869, President Grant expressed his surprise in one of his messages to Congress that the 'Imperial Government should have delegated the whole, or a share, of its jurisdiction or control of its inshore fisheries to the Colonial authority known as the Dominion of Canada, and that that semi-independent but irresponsible agent has exercised its delegated powers in an unfriendly way.' When some years later it became necessary to appoint a Commission to consider the value of the Canadian fisheries, opened up to the fishermen of the United States under the Washington Treaty of 1871, the Secretary of State of that day, Mr. Hamilton Fish,—to quote the language of Mr. Blaine in his review of the correspondence between London and Washington on the subject, —'very

—‘very sharply rebuked the interposition of the Government of Canada,’ because it had pressed on the Imperial authorities its right to be consulted as to the choice of Commissioners who were to decide a question of such deep interest to the Dominion. Mr. Fish, among other things, said that ‘the reference to the people of the Dominion of Canada seems to imply a practical transfer to that province of the right of nomination which the Treaty gives to Her Majesty.’ Coming down to a later time, when the Behring Sea difficulty arose to create some feeling between Canada and the United States, we find Mr. Blaine himself assuming the position that Canada, whatever might be her stake in the question at issue, should be considered of little weight, and that her Government should be kept quietly in the background, whilst the statesmen of England and the United States settle matters with as little interference as possible from mere outsiders like the Canadians; in fact, just as they did in the good old times when Canada was a relatively insignificant country, and diplomatists of the Republic had it generally all their own way. In the now famous correspondence on the question, Mr. Blaine displays some irritation that ‘the rights of the United States within Behring Sea and on the islands thereof are not absolute, but are to be determined by one of Her Majesty’s provinces,’ and even intimates his opinion that the English Government should interpose and prevent any objection on the part of the ‘Province of Canada’ to any arrangement that the Imperial authorities may choose to make with the United States.

The iteration of the word ‘province’ in these several State documents is some evidence that the public men of the United States do not yet appreciate the position of Canada in the British Empire, but believe that this aggregation of provinces, known constitutionally as the ‘Dominion of Canada,’ possessing large rights of self-government, and an increasing influence in Imperial councils, is still practically ruled in all matters by Downing Street, as in the days previous to the concession of responsible government. A little irritation on the part of American statesmen, however, is quite intelligible, when we consider that the political development of Canada within a few years has been a sort of revelation to the United States, who, for a long time, were taught to believe that Canada was a relatively insignificant appendage of the British Crown, whose interests were not considered of any importance in the case of negotiations between England and other nations, and that she could not possibly have any influence in the arena of international diplomacy. As we shall endeavour to show in the
course

course of this paper, the political development of Canada has given her a position in the Empire which makes her at last a factor in the affairs of the continent of America, and that the time has passed when her boundaries, and her territorial claims, can be made the mere shuttlecocks for ambitious and astute statesmen of the United States. Canada has won this position only after many sacrifices, and a stern fight against the ambitious designs of a powerful neighbour, not always animated by the most generous feelings towards the Dominion, and too often carried away by a belief in 'a manifest destiny,' which would eventually grasp a whole continent.

Indeed, when we look at the past history of America, we can well believe that there has been a Destiny ever 'shaping the ends' of the Canadian communities, however diplomatists and statesmen have endeavoured to 'rough hew' them in the early times of their development. In the beginning of the seventeenth century England and France entered on that contest for the supremacy in America which did not end for a hundred and fifty years. When the Treaty of Paris was signed in 1763, the results of French ambition in America were to be seen in a poor struggling colony on the banks of the St. Lawrence, and in a few settlements on the Illinois and in the Mississippi valley. The total population of these settlements did not exceed 80,000 souls, of whom 70,000 were living in the St. Lawrence valley. Even then the population of the thirteen colonies had reached 1,160,000 souls, or nearly fifteen times the French population of the St. Lawrence and Mississippi Basins. In wealth there was no comparison whatever between the two populations. The people of the English colonies were full of commercial energy and the spirit of political freedom. The people of the French province were the mere creatures of a King's ambition, and their energies were chiefly devoted to exploration and the fur trade. The conflict that was fought in America for a century and more was a conflict of antagonistic principles—the principles of self-government and free thought, against the principle of centralization and the repression of political liberty. Freedom was won on the plains of Abraham, and a great Frenchman and a great Englishman consecrated by their deaths on the same battlefield the future political union of two races on the northern half of the continent. Of the great events of history that have moulded national destinies none has had more momentous consequences than the conquest of Canada one hundred and thirty years ago. One consequence has been the development of a powerful federal Republic now composed of 62,000,000 of people—the heirs of those free colonies which were founded by Englishmen and flourished

flourished under the influence of English principles of government. The second consequence has been the establishment of a federation known as the Dominion of Canada, possessing political institutions which give remarkable scope to individual energies, and enable the French Canadians themselves even now to look forward to the realization of those dreams of ambition, which were the incentive to action of many noble men in those brave old days, when France held the St. Lawrence and the illimitable region of the West. But this grand conception of an Empire is in course of realization, not under the influence of French principles of government, but under the inspiration of those English institutions, which the experience of centuries proves are best calculated to develop political freedom, individual energy, and the finest qualities of human endeavour.

The conquest of Canada removed that fear of France which had long confined the whole thirteen colonies to the country between the sea and the Alleghanies, and opened up at last to their adventurous sons that great West which in later times has had such wondrous effects on the commerce of America. The Treaty of Paris in 1763 was the end of French dominion on this continent. It was immediately followed by a proclamation from George III. establishing new governments in America as a result of the English acquisitions from France and Spain. East and West Florida were formed out of the Spanish possessions to the south of the thirteen colonies, and the old French colony was confined practically to the St. Lawrence, and was to be thereafter known as the government of Quebec. The English possessions now reached the east bank of the Mississippi River, while Spain held the great country to the west of the river known as Louisiana. The claims of the thirteen colonies to the country between the Alleghanies and the Mississippi were not recognized by the British Government. On the contrary, settlement was discouraged in that rich region, and there is every reason for the opinion that the English ministry of that day had determined to retain its control in their own hands, and not to give new opportunities for the expansion of the old colonies, whose restlessness and impatience of all Imperial restraint were becoming quite obvious to English statesmen. But events, as usual, moved faster than the logic of statesmen. The war of American Independence broke out as a result of the practical freedom enjoyed by the colonies for a hundred years and more. The self-assertion of the thirteen colonies had its immediate results on the fortunes of Canada, for among the Acts passed by the Imperial Government, in accordance with a new and vigorous policy of colonial government, was the statute
known

known as the Quebec Act of 1774, which extended the limits of the Province of Quebec so as to include the country long known as the old North-West. This Act was obviously intended—indeed, it appears to have been a sequence of the policy of 1763—to confine the old English colonies to the country on the Atlantic coast, and to conciliate ‘the new subjects’ of England, the French population of the St. Lawrence and of the North-West, since it established a larger province with the civil law of the French *régime*, and removed the political disabilities under which the Roman Catholics had laboured since the conquest of Canada. During the War of Independence impassioned appeals were made to the French of Canada to join the thirteen colonies against England; and with a curious ignorance of the conditions of a people who probably never saw a printed book, and who never owned a printing-press during the French *régime*, references were made to the writings of Beccaria and to the spirit of the ‘immortal Montesquieu.’ With the same remarkable fatuity that has often prevented the people of the United States in these later days from understanding the feelings of Canadians, their predecessors in those early times attacked the Quebec Act as a measure of Roman Catholic tyranny at the very time they were asking the assistance of the French Canadians. Canada was invaded; and when Montgomery fell at Quebec, the tide of invasion was forced back into the rebellious colonies. The influence of the Quebec Act was from the outset felt throughout the country, and the dominant classes, the bishops and clergy of the Roman Catholic Church, and the principal French Canadian *seigneurs*, combined to preserve Canada to a country which had given such strong guarantees for the preservation of the civil and religious rights of its new subjects.

The period from 1774 to 1800 was one of great moment to Canada and the revolted Colonies. The Treaty of 1783, which acknowledged the independence of the latter, fixed the boundaries to the two countries, and laid the foundation of fruitful controversies in later times. Three of the ablest men the United States can claim as its sons—Franklin, John Adams, and John Jay—succeeded, by their astuteness and persistency, in extending its limits to the eastern bank of the Mississippi, despite the insidious efforts of Vergennes on the part of France to hem in the new nation between the Atlantic and the Appalachian Range. The relatively little interest that was taken in Canada during the preliminary negotiations may be easily deduced from the fact that Oswald, the English plenipotentiary, was even ready to listen to the audacious proposition made by Franklin for the cession of Canada to the new Federal Republic,

public, a proposition which has apparently moulded the policy of the United States ever since. It is said of Oswald that, when he returned to England with the draft Treaty, and was questioned by London merchants on the subject, he 'confessed his ignorance and wept over his own simplicity.*' 'The truth is,' said Dr. Franklin, in a letter from Paris, 'he (Oswald) appears so good and honourable a man, that though I have no objection to Mr. Grenville, I should be loath to lose Mr. Oswald.' Well might the astute Franklin be 'loath to lose' an envoy who conceded not only the territory west of the Alleghanies as far as the Mississippi, and valuable fishing rights and liberties on the banks and coasts of the remaining English possessions in North America, but also showed his ignorance of English interests by establishing boundaries which, in later times, made Canadians weep tears of humiliation.

The United States now controlled the territory extending in the east from Nova Scotia (which then included New Brunswick), to the head of the Lake of the Woods and to the Mississippi River in the west; and in the north from Canada to the Floridas in the south, the latter having again become Spanish possessions. The boundary between Nova Scotia and the Republic was so ill-defined, that it took half a century to fix the St. Croix and the Highlands which were by the Treaty to divide the two countries in the east. In the far west the line of division was to be drawn through the Lake of the Woods 'to the most north-western point thereof, and from thence on a due west course to the River Mississippi,'—a physical impossibility, since the head of the Mississippi, as it was afterwards found, was a hundred miles or so to the south. In later times this geographical error was corrected, and the curious distortion of the boundary-line, that now appears on the maps, was necessary at the Lake of the Woods in order to strike the 49th parallel of north latitude, which was subsequently arranged as the boundary-line as far as the Rocky Mountains. Of the difficulties that arose from the eastern boundary-line we shall speak later.

With the acquisition of a vast territory, acquired by the earnest diplomacy of its own statesmen, the United States entered on that career of national development which has attained such remarkable results within a century. The population of the country commenced to flow into the West,

* See 'Compressed View of the Points to be Discussed in treating with the United States.' London, 1814. Also, 'Letters to the Right Hon. E. G. S. Stanley, M.P., upon the existing Treaties with France and America.' By G. R. Young, of Halifax, N.S. London, 1834.

and Congress passed the famous ordinance of 1787, providing for the organization of the Western territories, and the eventual establishment of new States of the Union. By 1800 the total population of the United States was over five millions of souls, of whom over fifty thousand were dwelling in the embryo States of Ohio, Indiana, Illinois, Michigan, and Wisconsin—the ‘Old North-West.’ By 1800 a great change, too, had taken place in the material and political conditions of British North America. One of the most important results of the War of Independence had been the migration into the provinces of some forty thousand people, known as United Empire Loyalists, on account of their having remained faithful to the British Empire, and who during the progress of the war, but chiefly at its close, left their old homes in the thirteen Colonies. Their influence on the political fortunes of Canada has been necessarily very considerable. For years they and their children were animated by a feeling of bitter animosity against the United States, the effects of which can still be traced in these later times when questions of difference have arisen between England and her former Colonies. They have proved, with the French Canadians, a barrier to the growth of any annexation party in times of a national crisis, and have been in their way as powerful an influence in national and social life as the Puritan element itself in the Eastern and Western States.

In 1792 the Imperial Parliament again intervened in Canadian affairs, and formed two provinces out of the old Province of Quebec, known until 1867 as Upper Canada and Lower Canada, and gave to each a Legislature composed of two Houses. The English-speaking people of the old Province of Quebec strongly protested against the Act, but the younger Pitt, then at the head of affairs in England, deemed it the wisest policy to separate as far as practicable the two nationalities, instead of continuing their political union and making an effort to bring about an assimilation of language and institutions. It was a policy intended to act in the interests of peace and harmony, since it was then believed in England by others besides Pitt, that the two races would more happily and successfully work out their political fortunes apart from each other in those early days.

The total population of all British North America did not at that time reach 180,000 souls, of whom at least 100,000 were French Canadians. Nova Scotia was then confined to her present provincial limits; New Brunswick extended from the Gulf of St. Lawrence on the east to the ill-defined boundary of
Maine

Maine on the west, and from Lower Canada on the north to the Bay of Fundy and Nova Scotia on the south. Lower Canada was then confined to the country on both sides of the St. Lawrence River, from Labrador and the Gulf to the River Ottawa, which formed the eastern boundary of the province of Upper Canada, which extended indefinitely westward to Lakes Huron and Superior, and was bounded on the south by the St. Lawrence River, and the Lakes. By 1800 we find that the present Dominion and the United States had practically entered on the work of developing the great country now within their respective jurisdictions. The remarkable vigour and enterprise, displayed by the people of the new federation from the very commencement of their history as an independent nation, gave them a vantage-ground at the outset over provinces with diverse nationalities and interests, without any common bond of union except their fealty to England, whose public men and people, as a rule in those days, took little interest in their development, and many of whom always seemed possessed by the idea that it was only a question of time when these countries would be absorbed in the American Union of States. The period, which extends from 1800 to 1840, was distinguished by the remarkable progress made by the United States in population, wealth, and national strength. Spain and France left the valley of the Mississippi for ever, and the United States at last possessed a vast territory extending on the north from British North America, the Hudson Bay Territory and Rupert's Land to the Rio Grande and the Gulf of Mexico on the south, and on the east from the Atlantic to the Pacific Ocean on the west, where the nation claimed a great range of coast reaching even beyond the Columbia River, and embracing the valuable Oregon country. The tide of population continued to flow steadily through the passes and valleys of the Alleghanies and to build up the great West. By 1840 the total population of the United States was nearly 18,000,000, of whom 1,500,000 now lived in Ohio, 700,000 in Indiana, 500,000 in Illinois, over 31,000 in Wisconsin—all States carved out of that North-West which was once claimed by France, and might have remained in English hands, had English statesmen been more firm and had felt any confidence in the future of Canada. The Federal Union of 1789 had, during this period, increased from thirteen to twenty-six States—in itself very eloquent evidence of the material development of the country, and of the success of the federal system of government.

During this period of forty years Canada passed through some of the most trying crises of her history, which have largely influenced

influenced her political and material development to the present time. With the causes of the war of 1812 the Canadian people had nothing whatever to do; it was quite sufficient for them to know that it was their duty to assist England with all their might and submit to any sacrifices, which the fortunes of war might necessarily bring to a country which became the principal scene of conflict. No Canadians would willingly see a repetition of that contest between peoples who should be always friends, but they can nevertheless look back to the history of the struggle with the conviction that, wherever duty claimed the presence and aid of Canadians, they were ready and never failed to show their ability to defend their land and homes. The history of the battles of Queenston Heights, Stoney Creek, Chrysler's Field, Chateauguay, and Lundy's Lane, shows that they were not won by English regulars exclusively, but that in all of them the Canadian volunteers well performed their part. At Chateauguay, Colonel de Salaberry, a French Canadian officer, with a small force of 300 Canadians, gained so signal a victory over General Hampton, with at least 4000 men, that he was forced to retreat from Lower Canada. The war taught the United States there was greater strength in Canada than they believed when they commenced hostilities. 'On to Canada' had been the cry of the war-party in the United States for years; and there was a general feeling that the Upper Province could be easily taken and held, until the close of the struggle, when it could be used as a lever to bring England to satisfactory terms or else be united to the Federal Union. The result of the war showed, however, that the people of the United States had entirely mistaken the spirit of Canadians, and that the small population scattered over a large region, with hardly a town of any large importance, was animated by a stern determination to remain faithful to England. Canadians came out of the conflict with a confidence they had never felt before and of their ability to maintain themselves in security on the St. Lawrence and the great Lakes. Although the war ended without any definite decision on the questions at issue between the United States and England, the rights of neutrals were strengthened, and the pretensions of England as to the right of search are not likely to be urged again in times of war. But not only did the Canadians teach the people of the United States to respect them, they gained a practical advantage from the fact that it re-opened the question of the Fisheries. We have already stated that the Treaty of 1783 had conceded large rights and liberties to the fishermen of the United States on the banks and coasts of Newfoundland and of the maritime provinces of British North

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North America. The people of that country had claimed substantially that they had an original and prescriptive right in the fisheries which they had used as British subjects in North America. In the Treaty of 1783 they were given the 'right' to fish on the Grand and other banks of Newfoundland and in the Gulf of St. Lawrence, and 'at all other places in the sea, where the inhabitants of both countries used at any time heretofore to fish;' but they were to have only 'the liberty' of taking fish on the coasts of Newfoundland, and also of 'all other of his Britannic Majesty's dominions in America; and also of drying and curing fish in any of the unsettled bays, harbours, and creeks of Nova Scotia [then including New Brunswick], Magdalen Islands, and Labrador, so long as the same shall remain unsettled.' In the one case, it will be seen, there was a recognized right, and in the other only a mere 'liberty' or privilege extended to the fishermen of the United States. ~~This clause in the treaty was one of the concessions which Oswald conceded to the persistence of the American commissioners who attached great importance to the fisheries of the provinces; but after the close of the war of 1812, when it was necessary to consider the terms of peace, the English Government took a decided ground that the war had repealed these temporary liberties. The contention of the Federal Government was to the effect, that the Treaty of 1783, was of 'a peculiar character,' and that because it contained a recognition of American independence it could not be even in part abrogated by a subsequent war between the parties that had agreed to its provisions. The propositions laid down by the British Government in answer to this extraordinary claim, are unanswerable. In short it was correctly argued that 'the claim of an independent State to occupy and use at its discretion any portion of the territory of the other, without compensation of corresponding indulgence, cannot rest on any other foundation than conventional stipulation.' To quote the language of an able English writer on international law, this 'indefensible pretension' was abandoned in the Treaty of 1818, and fishery rights were accepted by the United States as having been acquired by contract. The Convention of 1818 forms the legal basis of the rights, which Canadians have always maintained, in the case of disputes between themselves and the United States as to the fisheries on their own coasts, bays and harbours of Canada. It provides that the inhabitants of the United States shall have for ever the liberty to take, dry, and cure fish on certain parts of the coast~~

* Hall, pp. 97-99.

of Newfoundland, on the Magdalen Islands, and on the southern shores of Labrador; but they 'renounce for ever any liberty, heretofore enjoyed' by them to take, dry, and cure fish, 'on or within three marine miles of any of the coasts, bays, creeks, or harbours of his Britannic Majesty's other dominions in America;' provided, however, that the 'American fishermen shall be admitted to enter such bays and harbours, for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever.' The American fishermen at the same time are to be 'under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.' It seems that in the original draft of the treaty the word 'bait' appeared after 'water,' but it was left out in the final agreement when the Commissioners of the United States found that they must concede this and other liberties previously enjoyed, in order to obtain as extensive a territory as possible for inshore fishing. Between 1818 and 1854, when the Reciprocity Treaty was arranged between the United States and the provinces of British North America, fishing vessels belonging to the former country were frequently detained, seized, and in some cases condemned for evasions of the treaty.

With the exception of this acknowledgment of the fishery rights of the Provinces, the war of 1812-1815 gave no special advantage to the Canadian people. England held during the war all the territory of Maine between the St. John and the Penobscot. Her flag also flew over Mackinaw, the key to the North-West. 'It is not impossible,' says an American writer, 'that the war of 1812 for a time revived English hopes of again recovering the North-West. . . . Only three of the thirty-two years lying between 1783 and 1815 were years of war; but for one-half of the whole time, the British flag was flying on the American side of the boundary-line. In the largest sense, therefore, the destiny of the North-West was not assured until the Treaty of Ghent.'* Had the English seized this opportunity of finally settling the western boundary of New Brunswick, the difficulties that afterwards arose might have been for once and all settled, and Canada would have obtained a territory most useful to the commercial development of the present Dominion. But in all probability the victories gained by the United States at Plattsburg and New Orleans had much influence in inducing England to come to terms

* Hinsdale, 'The Old North-West,' p. 185.

with the Republic, and it was fortunate for Canada that she was allowed to keep any control of her most valuable fisheries. Fate had decreed that the Mississippi River should flow continuously through the lands of the new nation, and that Canada should find in the valley of the St. Lawrence one of the chief sources of her prosperity and future greatness.

Before the close of the period which we are considering clouds again appeared on the Canadian horizon, arising out of the political troubles in Upper and Lower Canada. The representatives of the people in the several elective assemblies were demanding that the legislative councils should be elected by the people, that the people's House should have control of the revenues and expenditures, and that a larger measure of self-government, in short, should be conceded to the provinces. In Upper Canada, as indeed was the case in all the provinces, a bureaucracy ruled, and the name 'family compact' was given in derision to the governing class. The Imperial authorities were no doubt dilatory in providing effective remedies; they were too often misled by choleric military governors, little versed in political science; they were frequently in a quandary on account of a division of opinion among the various provincial leaders who were suggesting means of settling existing difficulties. Looking calmly and dispassionately at the history of these times, we must admit that there is no reason to conclude that British ministers were disposed to do the people grievous injustice, and sooner or later the questions at issue must have found a satisfactory solution. But Papineau, an impassioned orator and a rash popular leader, led a number of his French Canadian compatriots into a rebellion which was easily repressed. In Upper Canada, a little peppery Scotchman of the name of MacKenzie, who had done much in the press and in the legislature to expose the defects and weaknesses of the political system, became impatient at the last, when public grievances failed to obtain ready redress, and followed Papineau's example only to see his conspiracy exposed and defeated before it obtained any headway. In no province were the mass of the people willing to join in a rebellion to gain political privileges which would be won in the end by steady constitutional agitation, and the exercise of a little patience on the part of its advocates. Papineau and some of his friends went into exile, and several unruly spirits suffered death on the scaffold, though on the whole the English Government acted with lenity through this trying ordeal. MacKenzie fled to the United States, and industriously set to work to violate the neutrality of that country by collecting bands of ruffians in the city of Buffalo for the purpose

purpose of invading Canada. The consequence was, that the frontier of Upper Canada was kept for months in a state of fever by his criminal conduct, and the two countries were brought to the verge of war. The raiders seized an island just above Niagara Falls on the Canadian side, as a base of operations, and a vessel was freely allowed to ply between the island and the mainland with supplies. It became necessary to stop this bold attempt to supply the freebooters on Navy Island with the munitions of war, and a Canadian expedition was accordingly fitted out to seize the 'Caroline,' the vessel thus illegally employed. She was cut from her moorings on the American side, her crew taken prisoners, one man killed, and the vessel set on fire and sent over the Falls of Niagara. This was clearly one of those junctures when no other means were available for protecting Canada from the lawless attacks of men who found the 'Caroline' of great assistance in their intended raid on Canadian territory. The United States' authorities had made no special effort up to this moment to prevent this unwarrantable use of their soil by ruffians, and the Canadians were forced by every consideration of self-protection to take the law into their own hands. There was probably a technical violation of the territory of the United States, but looking now at the whole question dispassionately, one cannot help feeling that a little more determination on the part of the Government of the United States would have prevented all the difficulty that afterwards arose when they demanded an apology for an act which was necessary on account of the absence of that 'due diligence,' which they afterwards pressed in the case of the Alabama. The Government of the United States, however, subsequently recognized their obligations to Canada, and took measures to vindicate the neutrality of their territory.

As we have already said, the year 1840 was a turning-point in the history of the material and political development of British North America. The two Canadas were re-united under the name of the province of Canada, and the basis was laid for the complete measure of self-government that is now enjoyed by all the communities of the present Dominion. The total population of British North America now exceeded 1,000,000 of souls, of whom at least 600,000 were French Canadians, who looked for a time with suspicion on the Union, under the belief that it was a direct blow against their special institutions. As the years passed by, however, they found that they were treated in a spirit of justice, and were able to exercise a potent influence in political affairs. From 1840 to 1867 the relations of Canada and the United States became much closer, and more than once

assumed a dangerous phase. In 1840 the authorities of New York arrested one Macleod on the charge of having murdered a man who was employed on the 'Caroline.' It appeared, however, on enquiry, that Macleod had not actually assisted in the capture of the vessel, and that the charge rested on the doubtful evidence of some questionable characters, who declared he had been heard to boast of his part in the exploit. The British Government at once took the sound ground that, in any case, the destruction of the 'Caroline' was a public act of persons employed in her Majesty's service, and that it could not be justly made the occasion of 'legal proceedings in the United States against the individuals concerned, who were bound to obey the authorities appointed by their own Government.' The Washington Government evaded the whole question at issue by throwing the responsibility on the State authorities, and declared that they could not interfere with a matter which was then within the jurisdiction of the State Courts. The matter gave rise to much correspondence between the two Governments, but happily for the peace of the two countries the courts acquitted Macleod, as the evidence was clear that he had had nothing to do with the actual seizing of the 'Caroline,' and the authorities at Washington soon afterwards acknowledged their responsibility in such affairs by passing an Act directing that subjects of foreign powers, if taken into custody for acts done or committed under the authority of their State, 'the validity or effect whereof depends upon the law of nations, should be discharged.' The Imperial Government throughout this affair acted in a spirit of much forbearance, and simply with the object of obtaining the acknowledgment of a sound principle of international law, and it must be admitted that the Washington authorities showed an unwillingness to move determinately in the matter which was very irritating to Canadians, although allowance must be made for the fact that in those days the central government of the Federal Union was weak, and the principle of State sovereignty was being pressed to the extreme limit.

Two other questions were settled during this important period of Canadian history, after having imperilled the peaceful relations of the two countries for years. By 1840 the question of the disputed territory between Maine and New Brunswick had assumed grave proportions. In a paper of this character it is impossible to do more than give an outline of the opinions always entertained by Canadians on a question of a very complicated character, to which reams of literature have been devoted in the past. The first effect of the dispute on the material

material development of Eastern Canada was the failure of an effort that was made in 1835 to construct a line of railway from Quebec to St. Andrew's on the Bay of Fundy, on account of the clamour raised by the people of Maine, on the ground that the road would run through territory which they claimed as their own. By the Treaty of 1783, the boundary was to be a line drawn from the source of the St. Croix, directly north, to the highlands which divide the rivers which fall into the river St. Lawrence; thence along the said highlands to the north westernmost head of the Connecticut river; and the point at which the due north line was to cut the highlands was also designated as the north-west angle of Nova Scotia. The whole question had been the subject of several commissions and of one arbitration from 1783 to 1842, when it was submitted to Mr. Daniel Webster and Mr. Alexander Baring, who were chosen by the Governments of the United States and England respectively, to arrange all matters of controversy between the two countries. The result was a compromise by which the United States obtained seven-twelfths, and the most valuable section of the disputed territory, and Canada a much smaller and comparatively valueless tract of land. In fact, after half a century of controversy, the English Government gave up to the United States, in all, 11,000 square miles of land, or the combined areas of Massachusetts and Connecticut. It would be impossible to disabuse the great majority of Canadians of the fixed idea, which has come to them as the heritage of those badly managed negotiations, that their interests were literally given away by the too conciliatory and amiable English envoy who knew nothing of the question, and was quite indifferent, like most Englishmen of those days, to Canadian matters. Lord Ashburton was practically pledged to a settlement at any price, even if it gave up all the territory in dispute to the United States. The isolated provinces in those days were endeavouring to establish the principles of local self-government on sound foundations, and had little or no opportunity of exercising any direct influence in imperial councils on this question. If we look at the map, we shall see at a glance the important effect of this settlement upon the territorial limits of the present Dominion. The State of Maine now presses like a huge wedge into the provinces of New Brunswick and Quebec. As already stated, the persistency of Maine, fifty years ago, stopped railway communication between the upper and lower provinces, and practically prevented the development of intercolonial trade until after 1867. In these later times a 'Canadian short line' railway has been forced to go through Maine in order to connect Montreal

with Fredericton, St. Andrew's, and the maritime provinces generally.

During this period was settled another question which was the subject of much heated controversy between England and the United States for more than a quarter of a century, and in 1845 brought the two countries very close to war. In 1819 the United States obtained from Spain a cession of all her rights and claims north of latitude forty-two, or the southern boundary of the present state of Oregon. By that time the ambition of the United States was not content with the Mississippi valley, of which she had at last full control by the cession of the Spanish claims and by the Louisiana purchase of 1803, but looked to the Pacific coast where she made pretensions to a territory stretching from 42° to 54° 40' north latitude, or a territory four times the area of Great Britain and Ireland or of the present province of Ontario.* The people of the United States, conscious at last of the importance of the territory, began to bring their influence to bear on the politicians, until by 1845 the Democratic party declared for '54° 40' or fight.' Mr. Crittenden announced that 'war might now be looked upon as almost inevitable.' Happily President Polk and Congress came to more pacific conclusions after a good deal of warlike 'talk,' and the result was a treaty by which England was satisfied with the line 49° to the Pacific coast, and the whole of Vancouver Island, which, for a while, seemed likely to be divided with the United States. In fact England yielded all she had contended for since 1824, when she first proposed the Columbia River as a basis of division. But even the question of boundary was not finally settled by this great victory won for the United States by the persistency of her statesmen. The Treaty of 1846 continued the line of boundary westward along 'the 49° parallel of north latitude to the middle of the channel which separates the continent from Vancouver Island, and thence southerly, through the middle of the said channel and of Fuca's straits to the Pacific Ocean.' Any one reading this clause for the first time, without reference to the contentions that were raised afterwards, would certainly interpret it to mean the whole body of water that separates the continent from Vancouver,—such a channel, in fact, as divides England from France; but it appears that there are a number of small channels which run through the islands of the great channel

* See the 'Quarterly Review' for 1845-6 (vol. 77, pp. 526-563), where the English case is ably argued in all its aspects. The case of the United States is fully stated in a recent work on Oregon, which is cited at the head of this paper.

in question, and the clever diplomatists at Washington immediately claimed the Canal de Haro, the widest and deepest, as the canal of the treaty. Instead of at once taking the ground that the whole body of water was really in question, the English Government claimed another channel, Rosario Strait, inferior in some respects but the one most generally and indeed only used at the time by their vessels. The importance of this difference of opinion chiefly lay in the fact, that the Haro gave San Juan and other small islands, valuable for defensive purposes, to the United States, while the Rosario left them to England. Then, after much correspondence, the British Government, as a compromise, offered the middle channel, or Douglas, which would still retain San Juan. If they had always adhered to the Douglas, which appears to answer the conditions of the treaty since it went through the middle of the great channel, their position would have been much stronger than it was when they came back to the Rosario. By the Reverdy Johnson agreement of 1867, the several issues connected with the clause—the whole channel or the small channels—were to be submitted to arbitration, but it never reached the Senate. The English representatives at the Washington Convention of 1871 attempted to have a similar reference, but the United States' Commissioners, aware of their vantage-ground, would consent to no other arrangement than to leave to the decision of the Emperor of Germany the question whether the Haro or the Rosario channel came within the meaning of the treaty, and he decided in favour of the United States. However, with the possession of Vancouver in its entirety, Canada can still be grateful, and San Juan is now only remembered as an episode of diplomacy, which has practically closed the long series of perplexing boundary questions that have arisen since 1783. The United States can be well content with the grand results of their treaties and purchases. They have won in a hundred years or so the former possessions of Spain and France in the Mississippi valley, a large portion of New Brunswick, a tract of four millions of acres to the west of Lake Superior in the settlement of the North-West boundary, another result of Daniel Webster's astuteness, and the magnificent region now divided among the states of Oregon, Washington, and Idaho. And we may add another acquisition of theirs—insignificant from the point of view of territorial area, but still illustrative of the methods which have won all the great districts we have named—Rouse's Point, 'of which an exact survey would have deprived' the United States, according to Mr. Schouler in his excellent history.

history.] The question of the Alaska boundary alone remains unsettled, but it is a mere matter of exact surveying, and Canada is not likely to lose anything in that region, after the experience just mentioned.

During this period the Fishery question again assumed considerable importance. The Imperial authorities had supported the provincial governments in their efforts to keep United States fishermen from their fishing-grounds under the terms of the Convention of 1818. The Government at Washington then began to raise the issue that the three miles' limit, to which their fishermen could be confined, should follow the sinuosities of the coasts, including the bays, the object being to obtain access to the valuable mackerel fisheries of the Bay of Chaleurs and other waters claimed to be exclusively within the territorial jurisdiction of the maritime provinces. The Imperial Government, generally, sustained the contention of the provinces—a contention practically supported by American authorities in the case of the Delaware, Chesapeake, and other bays on the coast of the United States—that the three miles' limit should be measured from a line drawn from headland to headland of all bays, harbours, and creeks. In the case of the Bay of Fundy, however, the Imperial Government allowed a departure from this general principle, when it was urged by the Washington Government, that one of its headlands was in the territory of the United States, and that it was an arm of the sea rather than a bay. The result was that foreign fishing vessels were only shut out from the bays on the coasts of Nova Scotia and New Brunswick *within* the Bay of Fundy. All these questions were, however, placed in abeyance for twelve years by the Reciprocity Treaty of 1854, which opened up the provincial fisheries to the people of the United States on condition of free trade between the provinces and that country in certain natural products of the mines, fisheries, and farms, of the two peoples. This measure was in itself an acknowledgment of the growing importance of the provinces, and of the large measure of self-government now accorded to them. The treaty only became law with the consent of the provincial legislatures, and although the Canadian Governments were not directly represented by any of its members, the Governor-general, Lord Elgin, who personally conducted the negotiations on the part of England at Washington, in this as in all other matters touching Colonial interests, was assisted by the advice of his responsible Ministers. The Treaty lasted until 1866 when it was repealed by the action of the United States, in accordance with the provision bringing it to a conclusion after one year's notice from one

one of the parties interested. During the twelve years of its existence, the United States exported to British North America home products to the value of \$300,808,370, and foreign goods to the value of \$62,379,718; or, a total export of \$363,188,088. The imports from the provinces into the United States amounted to \$267,612,131. These figures, therefore, show a balance in favour of the United States of \$95,575,957.* This statement, however, does not take into account the value of the provincial fisheries opened up to the fishermen of New England, but it may be estimated from the fact, as stated by Mr. Derby, a recognized authority in the United States on those subjects, that 'during the two last years of the Reciprocity Treaty the United States had fishing in the Gulf of St. Lawrence and the Bay of Chaleurs no less than 600 sail, which must have taken fish to the amount of \$4,500,000,' and that 'nearly one-fourth of the United States fishing fleet, with a tonnage of 40,000 to 50,000 tons, worth \$5,000,000 to \$7,000,000 annually, fish near the three miles' limit of the provinces,'—'near' being evidently Mr. Derby's euphemism for 'within.†

The causes which led to the repeal of a treaty so largely advantageous to the United States have been long well understood. The commercial classes in the Eastern and Western States were, on the whole, favourable to an enlargement of the Treaty; but the real cause of its repeal was the prejudice in the north against the provinces for their supposed sympathy for the Confederate States during the war of the rebellion. A large body of men in the North believed that the repeal of the Treaty would sooner or later force the provinces into annexation, and a bill was actually introduced in the House of Representatives providing for the admission of those countries—a mere political straw, it is true, but still showing the current of opinion in some quarters in those days. When we review the history of those times, and consider the difficult position in which Canada was necessarily placed, it is remarkable how honourably her Government discharged its duties of a neutral between the belligerents.‡ It is well, too, to remember how large a number of Canadians fought in the Union armies—twenty against one who served in the South. No doubt the position of Canada was made more

* See Speech of Sir Charles Tupper in Canadian House of Commons. 'Can. Hansard, 1888,' vol. i. pp. 674-693.

† See 'Proceedings of Royal Colonial Institute, 1872-3,' pp. 56, 60.

‡ Mr. Secretary Seward wrote on one occasion in a letter to the British representative at Washington: 'I think it proper to let you know that the President regards with sincere satisfaction the conduct and proceedings of the Canadian authorities.'

difficult at that critical time by the fact that she was a colony of Great Britain, against whom both north and south entertained bitter feelings by the close of the war; the former mainly on account of the escape of Confederate cruisers from English ports, and the latter because she did not receive active support from England. The North had been also much excited by the promptness with which Lord Palmerston had sent troops to Canada when Mason and Slidell were seized on an English packet on the high seas, and by the bold tone held by some Canadian papers when it was doubtful if the prisoners would be released.

Contemporaneously with the repeal of the Reciprocity Treaty came the raids of the Fenians, bands of men who did dishonour to the cause of Ireland, under the pretence of striking a blow at England through Canada where their countrymen have always found happy homes, free government, and honourable positions. For months before the invasion, American newspapers were full of accounts of the assembling and the arming of these bands on the frontier of Canada. They invaded the Dominion, property was destroyed, and a number of Canadian youths lost their lives, and O'Neil and his collection of disbanded soldiers and fugitives from justice were forced back to the country whose neutrality they had outraged. The United States' authorities, with their usual laxity in such matters, had calmly looked on while all the preparations for the raids were in progress, in the presence of large bodies of militia who could in an hour have prevented these outrages on a friendly territory. Proclamations were at last tardily issued by the Government when the damage had been done, and a few raiders were arrested; but the House of Representatives immediately sent a resolution to the President requesting him 'to cause the prosecutions, instituted in the United States' courts against the Fenians, to be discontinued if compatible with the public interest'—a request which was complied with. The writer on international law, from whom we have already quoted, says that 'it would be difficult to find a more typical instance of responsibility assumed by a State through the permission of open acts and of notorious acts, and by way of complicity after the acts.'

* Hall, p. 215, note. This same writer also refers to the disposition shown by the United States in 1879 to press State responsibility to the utmost extreme against Great Britain, when Sitting Bull and some Sioux Indians took refuge in the North-West Territories of Canada, and there was some reason to expect that they would make incursions into the United States' territory. See Wharton, 'Digest,' sect. 18.

These raids took place at a critical period of Canadian history—the eve of Confederation. The time had come for enlarging the sphere of the political action of the provinces and giving them larger responsibilities. The repeal of the Reciprocity Treaty and the Fenian invasions helped to stimulate public sentiment in favour of a political union which would enable them to take common measures for their general security and development. In 1867, as the result of the conference of provincial delegates who assembled at Quebec in the autumn of 1865, the Imperial Parliament passed an Act establishing a federal union between the provinces of Canada (now divided into the provinces of Ontario and Quebec), New Brunswick, and Nova Scotia, and providing for the acquisition of the North-West Territories, and the admission of other provinces. This union was of a federal character, a central government having the control of national or common objects, and provincial governments having control of purely provincial, municipal, and local matters. In 1867–8 the first Parliament of United Canada met at Ottawa, and the provincial legislatures at their respective seats of government; and the Dominion—not the ‘province’—of Canada entered on a career of political and industrial development which is now making its influence felt over half a continent.

Before and since the union, the Government of Canada have time and again made efforts to renew a commercial treaty with the Government at Washington. In 1865 and 1866, Canadian delegates were prepared to make large concessions, but were unable to come to terms chiefly on the ground that the imposts which it was proposed by the committee of ways and means in Congress to lay upon the products of the British provinces on their entry into the markets of the United States were such as, in their opinion, would be ‘in some cases prohibitory, and certainly seriously interfere with the natural course of trade.’ The delegates were reluctantly brought to the conclusion that ‘the Committee no longer desired trade between the two countries to be carried on upon the principle of reciprocity.’ The result of these negotiations was to convince the people of Canada that, while they should be always ready to listen to any fair proposition from their neighbours in the direction of reciprocity, they should at the same time seek to open up as many new avenues of trade as possible, and not depend on the caprices of their neighbours. In 1869 Sir John Rose, while Minister of Finance, made an effort in the same direction, but he was met by the obstinate refusal of the Republican party, then as always highly protective.

All this while the Fishery question was assuming year by year a form that was most irritating to the two countries. The headland question was the principal difficulty, and the English Government, in order to conciliate the United States at a time when the Alabama question was a subject of anxiety, induced the Canadian Government to agree, very reluctantly it must be admitted, to shut out foreign fishing vessels only from bays less than six miles in width at their entrances. In this, as in all other matters, however, the Canadian authorities acknowledged their duty to yield to considerations of Imperial interests, and acceded to the wishes of the Imperial Government in almost every respect, except actually surrendering their territorial rights in the fisheries. They issued licences to fish, at low rates, for several years, only to find eventually that the American fishermen did not think it worth while buying these permits when they saw that the regulations for protecting the fisheries could be evaded with little difficulty. The result of the correspondence that went on for several years was the Washington Conference or Commission of 1871, which, in its inception, was intended to settle the Fishery question primarily, but which actually gave the precedence to the Alabama difficulty—then of most concern in the opinion of the London and Washington Governments. With the settlement of the Alabama question, and the three new rules laid down at the outset, as the basis of arbitration, we have nothing to do in this present article, and we can only say that Canadians as well as Englishmen might well be satisfied that a troublesome international difficulty was at last amicably arranged. The representatives of the United States would not consider a proposition for a renewal of another Reciprocity Treaty on the basis of that of 1854. The questions arising out of the Convention of 1818 were not settled by the Commission, but were practically laid aside for ten years by an arrangement providing for the free admission of salt-water fish into the United States, on condition of allowing the fishing vessels of that country free access to the Canadian fisheries. The free navigation of the St. Lawrence was conceded to the United States in return for the free use of Lake Michigan and of certain rivers in Alaska. The question of the coasting trade, long demanded by the maritime provinces, was not considered, and while the canals of Canada were opened up to the United States on the most liberal terms, the Washington Government contented themselves with a barren promise in the Treaty to use their influence with the authorities of the States to open up their artificial waterways to Canadians. The Fenian claims were abruptly laid aside, although, had the same principle of
'due

*To the settlement of the
Alabama claims*

'due diligence' that was laid down in the new rules, been applied to this question, the Government of the United States would have been mulcted in heavy damages. This question above all others should have been settled on terms which would have shown the disposition of a great country to do justice to a neighbour who had, under the most trying circumstances, kept a due check upon her sympathies, so that even Mr. Caleb Cushing* was unable to detect a flaw in her conduct. In this, however, as in many other negotiations, with the United States, Canada felt she must make sacrifices for the Empire, whose Government wished all causes of irritation between England and the United States removed as far as possible by the Treaty. One important feature of this Commission was the presence, for the first time in the history of Treaties, of a Canadian statesman. The astute Prime Minister of the Dominion, Sir John Macdonald, was chosen as one of the English High Commissioners, avowedly with the object of acknowledging the interest of Canada in the questions involved. Although he was but one of five English Commissioners, and necessarily tied down by the instructions of the Imperial State, no doubt his knowledge of Canadian questions was of great service to Canada during the Conference. If the Treaty finally proved more favourable to the Dominion than it at first appeared to be, it was owing largely to the clause which provided for a reference to a later Commission of the question, whether the United States would not have to pay the Canadians a sum of money, as the value of their fisheries over and above any concessions made them in the Treaty. The result of this Commission was a payment of five millions and a half of dollars to Canada and Newfoundland, to the infinite disappointment of the politicians of the United States who had been long accustomed to have the best in all bargains with their neighbours. No fact shows more clearly the measure of the local self-government at last won by Canada and the importance of her position in the Empire, than the fact that the English Government recognized the right of the Dominion Government to name the Commissioner who represented Canada on an arbitration which decided a question of such deep importance to her interests. We see, then, as Canada gained in political strength, she obtained an influence of Imperial Councils which Mr. Fish resented at the time, and was able to obtain that consideration for her interests which was entirely absent in the days of her infancy and weakness.

* He was one of the counsel for the United States at the Geneva Conference for the settlement of the Alabama claims.

The Washington Treaty lasted for twelve years, and then the clauses relating to the fisheries and to trade with Canada were repealed by the action of the United States' Government.* During its existence the Canadian Ministry sent to Washington one of the ablest public men of the Dominion—a man especially versed in matters of trade and finance—with the object of arranging, if possible, a measure of reciprocity with the United States. Mr. George Brown was quite ready, presumably with the assent of his Government, not only to revive the old Reciprocity Treaty but to extend its terms largely so as to admit various other articles free of duty into Canada; but the proposed arrangement never passed the Senate of the United States. With the expiry of the Treaty of 1871 on the 1st of July, 1885, the relations between Canada and the United States again assumed a phase of great uncertainty. President Cleveland showed every disposition, until near the close of his administration, to come to some satisfactory adjustment of the question at issue, and suggested in one of his messages that it was 'in the interests of good neighbourhood and commerce,' that a Commission should be 'charged with the consideration and settlement, upon a just, equitable and honourable basis, of the entire question of the fishing rights of the two countries.' Canada from 1885 adhered to the letter of the Convention of 1818, and allowed no fishing vessels to fish within the three miles' limit, to tranship cargoes of fish in her ports, or to enter them for any purpose except for shelter, wood, water, and repairs. For the infractions of the Treaty several vessels were seized, and more than one of them condemned. A clamour was raised in the United States on the ground that the Canadians were wanting in that spirit of friendly intercourse which should characterize the relations of neighbouring peoples. The fact is, the Canadians were bound to adhere to their legal rights—rights which had been always maintained before 1854; which had remained in abeyance between 1854 and 1866; which naturally revived after the repeal of the Reciprocity Treaty of 1854; which again remained in abeyance between 1871 and 1885; and were revived when the United States themselves chose to go back to the terms of the Convention of 1818. The Canadian people had again and again shown every disposition to yield a large portion of their just rights—first by the Treaty of 1854, and secondly by the Treaty of 1871—in return for a substantial commercial arrangement and a due acknowledg-

* Arts. xviii.-xxi. Art. xxix., allowing goods to pass in bond through the two countries, was not repealed in express terms when the fishery articles were terminated, but has ever since remained in force.

ment of the value of their fisheries; but they were not prepared to see their territorial waters recklessly and unlawfully invaded by a class of men, who, since 1783, seemed to consider they had a perfect claim to the Canadian fishing-grounds. If there was a system of government in the United States, such as exists in England and Canada, requiring unity of action between the legislative and executive authorities, perhaps we would not have to record such unsatisfactory results as followed President Cleveland's efforts to adjust satisfactorily the relations of his country with Canada. Congress passed a measure before the presidential election of 1888, which, had it ever been carried out by the President, meant non-intercourse with the Dominion—a measure which may have resulted in consequences to both countries we do not like to consider for a moment. It would be well to remind the politicians in Congress that such measures are often like the Australian boomerang, and the experience of the non-intercourse Acts that preceded the war of 1812 can hardly sanction a repetition of such a policy in these later times. The repeal of the bonding system and interference with the transportation facilities of Canadian railways could hardly benefit the commerce of the United States, whatever might be the effect of such an unwise policy on Canada itself.

Both President Cleveland and Mr. Secretary Bayard, in a statesmanlike spirit, obtained the consent of England to a Special Commission to consider the Fishery question: Sir Sackville West, Mr. Joseph Chamberlain, and Sir Charles Tupper represented England; Mr. Bayard, then Secretary of State, Mr. Putnam of Maine, and Mr. Angell of Michigan University, represented the United States. Sir Charles Tupper, the present High Commissioner of Canada in London, is one of the ablest statesmen of the Dominion, and as a Nova Scotian was specially qualified to guard Canadian interests. At the opening of the Commission, he attempted to obtain a basis of action on the general proposition which he submitted, that 'with a view of removing all clauses of difference in connexion with the fisheries, the fishermen of both countries shall have all the privileges enjoyed during the existence of the fishery clauses of the Washington Treaty of 1871, in consideration of a mutual arrangement providing for greater freedom of commercial intercourse between the United States and Canada.' The United States' Commissioners refused to consider the proposition, on the ground that such a measure of commercial intercourse 'would necessitate an adjustment of the present tariff of the United States by Congressional action; which

which adjustment the American plenipotentiaries consider to be manifestly impracticable of accomplishment through the medium of a treaty under the circumstances now existing.' However, the Commissioners agreed unanimously to a treaty which was essentially a compromise, as, indeed, all such treaties must be in the nature of things. Foreign fishermen were to be at liberty to go into any waters where the bay was more than ten miles wide at the mouth, but certain bays, including the Bay of Chaleurs, were expressly excepted in the interest of Canada from the operation of this provision. The United States did not attempt to acquire the right to fish in the inshore fishing-grounds of Canada—that is, within three miles of the coasts—but these fisheries were to be left for the exclusive use of the Canadian fishermen. More satisfactory arrangements were made for vessels obliged to resort to the Canadian ports in distress, and a provision was made for allowing American fishing-vessels to obtain supplies and other privileges in the harbours of the Dominion whenever Congress allowed the fish of that country to enter free into the market of the United States. President Cleveland in his Message, submitting the Treaty to the Senate, acknowledged that it 'supplied a satisfactory, practical, and final adjustment, upon a basis honourable and just to both parties, of the difficult and vexed question to which it relates.' The Republican Party, however, at that important juncture—just before a presidential election—had a majority in the Senate, and the result was the failure in that body of a measure, which, although by no means too favourable to Canadian interests, was framed in a spirit of judicious statesmanship, and, if agreed to, would have settled for all time, in all probability, questions which have too long been sources of irritation to the two countries.

While these events were taking place the Dominion of Canada was extending its limits across the continent, developing a great railway system, and making steady strides in the path of national progress. The vast region which extends from the head of Lake Superior to the Rocky Mountains, and from the Lake of the Woods and the forty-ninth degree of north latitude to Hudson Bay and the Arctic Ocean, the home of the Indian and the fur trader for centuries, whose capabilities for settlement had been studiously concealed from the world by a great fur monopoly, was added to the territory of the Dominion, and the new province of Manitoba was established with a complete system of local government. Prince Edward Island, a rich spot in the Gulf of St. Lawrence, came into the Union, and the Dominion was extended

extended as far as the Pacific Ocean by the admission of British Columbia. Two noble islands, with great fisheries and coal mines, Cape Breton and Vancouver, now guarded the Atlantic and Pacific shores of the Dominion. A great line of railway spanned the continent from the Straits of Canso to the Gulf of Georgia, as a result of the new energy and national spirit developed by the Union. Population flowed slowly yet steadily into the territories, and there is now a cordon of cities, towns, and villages stretching from Port Arthur at the head of Lake Superior to Vancouver, that city of marvellous growth on the Pacific coast.

As a sequence of the acquisition of British Columbia, Canada has been compelled to take an active part in the consideration of a question of some gravity that has arisen between England and the United States, in consequence of a cruiser of the latter country having forcibly seized, and carried into a port of Alaska, certain Canadian vessels engaged in the seal fisheries of the great body of sea known in these times as Behring Sea. A perusal of the Blue Book containing the correspondence on the subject between London, Ottawa, and Washington, shows that from the beginning to the end of this controversy the Imperial Government has consulted with the Government of Canada on every point material to the issue. As an English statesman determined to maintain the interests of all sections of the Empire, Lord Salisbury has paid every respect to the opinions and statements of the Canadian Ministry in relation to a matter which deeply affects Canada, and has pursued a course throughout the negotiations which has done much to strengthen the relations between the parent State and the dependency. Without going fully into this vexed question, we shall simply state the principal arguments advanced by the Imperial and Canadian authorities in maintaining their case.

1. That certain Canadian schooners, fitted out in British Columbia, and peaceably and lawfully engaged in the capture of seals in the Northern Pacific Ocean, adjacent to Vancouver Island, Queen Charlotte Islands, and Alaska—a portion of the territory of the United States acquired in 1867 from Russia—were seized in the open sea, out of sight of land, by a United States' cutter, although being at the time at a distance of more than sixty miles from the nearest land. These vessels were taken into a port of Alaska, where they were subjected to forfeiture, and the masters and mates fined and imprisoned.

2. That the facts of these seizures showed the English and Canadian Governments, that the authorities of the United States appeared

appeared to lay claim to the sole sovereignty of that part of Behring Sea lying east of the westerly boundary of Alaska, as defined in the first article of the Treaty between the United States and Russia in 1867, by which Alaska was ceded to the United States, and which includes a stretch of sea extending in its widest part some 600 or 700 miles easterly from the mainland of Alaska.

3. That these proceedings were in direct violation of established principles of the law of nations, as urged in former times by the United States.

4. That the United States, through their Secretary of State, Hon. John Quincy Adams, emphatically resisted in 1822 a claim made by a Russian Ukase to sovereignty for 100 miles distant from the coasts and islands belonging to Russia in the Pacific Ocean, north of the 51st degree of latitude. That Russia subsequently relinquished her indefensible position and agreed to a convention, first with the United States, and subsequently with England, recognizing the rights of navigation and fishing by those nations in any part of the Behring Sea within limits allowed by the law of nations.

5. That the municipal legislation of the United States, under which the Canadian vessels were seized and condemned and their masters and mates fined and imprisoned, in an Alaskan court, could have no operation whatever against vessels in Behring Sea, which is not in the territorial waters of the United States ; that any claim to exclusive jurisdiction on such seas is opposed to international law, and no such right can be acquired by prescription.

6. That the Canadian vessels captured in the Behring Sea were not engaged in any proceeding *contra bonos mores*, as urged by Mr. Blaine, inasmuch as such a rule is only admissible in the case of piracy or in pursuance of a special international agreement. All jurists of note have acknowledged this principle, and President Tyler, in a message to Congress in 1843, pressed the point that with the single exception of piracy 'no nation has in the time of peace any authority to detain the ships of another upon the high seas on any pretext whatever outside the territorial jurisdiction.' That discreditable traffic, the slave-trade, might well be considered *contra bonos mores*, but the Government of the United States would not consent to any English ship visiting and searching a suspected ship floating their flag, and yet the capture of seals is now a more serious affair than human slavery in the estimation of the Washington Secretary of State.

7. That

7. That the British Government have always claimed the freedom of navigation and fishing in the waters of the Behring Sea outside of the usual territorial marine league from the coast; that it is clearly impossible to admit that 'a public right to fish or pursue any other lawful occupation on the high seas can be considered to be abandoned by a nation from the mere fact that for a certain number of years it has not suited the subjects of that nation to exercise it;' and it must be remembered that British Columbia has come into existence as a colony, and her seal industry has become important only within a very recent period.

8. That the Canadian Government, in their desire to maintain as friendly relations as possible with the United States, have stated to the Imperial Government their readiness to consider any international arrangement for the proper preservation of the seal; but before such an enquiry is agreed to they expect that the question raised by the seizures of the Canadian vessels shall be settled according to the law of nations, and that the claim of indemnity now in the hands of Her Majesty's Government shall be fully settled.

9. That Her Majesty's Government are quite ready to agree that the whole question of the legality of the seizures in the Behring Sea, and the issues dependent thereon, shall be referred to an impartial arbitration.

From this summary it will be seen that the issues raised by the English and Canadian Governments are very clear—that the seizures of Canadian vessels were illegal—that the United States have no special or exclusive rights in this open sea under any recognized principle of international law. The whole tenor of Mr. Blaine's last despatches has been in the direction of the indefensible ground, that the Behring Sea and its fisheries occupy an altogether exceptional position among the seas and fisheries of the world, but no authority of note, American or European, has supported his argument; and it is impossible to explain how the Secretary of State could raise the issue of an offence against good morals, when it could have no application to the fisheries in question, and could in any case have no value or force except by international agreement—an agreement which would only bind the parties who might make it. If the United States have any exclusive rights beyond those based on intelligible and generally admitted principles of reason and the law of nations, let them be explained and settled in a court of arbitration; and, if there is any necessity for a close season, let it be decided by experts in such matters. The question in itself chiefly involves the profits of a commercial monopoly; and

were it not for the extraordinary pretensions urged by the United States Government—pretensions which they would have been the first to disavow, indeed were the first to repudiate in the past, and which no nation could under any circumstances maintain for a moment in the face of the world—no difficulty whatever could have occurred in a matter which should have been long ere this settled at once by common agreement.

The Canadian Government, with the approval of the Imperial authorities, has given additional evidence of its desire to settle this vexed question with as little delay as possible by taking the necessary steps for bringing the whole subject of the legality of the seizures of Canadian vessels on the high sea before the Supreme Court, the highest tribunal in the United States. That Court has already consented to consider a petition for a writ of prohibition to prevent the District Court of Alaska from proceeding to carry out its decree of forfeiture in the case of the schooner 'Sayward,' libelled for unlawfully taking seals in the Behring Sea. The case comes up in April, and it is hoped that the great tribunal, to which the Canadians so confidently appeal, will be able to go into the whole question at issue. If so, it will be a triumph of law over uncertain and crooked diplomacy.

The part that Canada has taken in this matter is in itself an illustration of her importance in Imperial councils and of the vastness of her territorial domain, which now stretches from the Atlantic to the Pacific. One hundred and thirty years ago the term 'Canada' represented an ill-defined region of country watered by the St. Lawrence and the Great Lakes, inhabited by a few thousand Frenchmen living chiefly on the banks of the St. Lawrence and its tributaries. English-speaking people then came into the country and settled in the maritime provinces, on the St. Lawrence, and on the Lakes; representative institutions were established, commerce was developed, and, by 1792, five provinces, governed in the English way, were established from Cape Breton to the western limits of Ontario. For many years the indifference of English statesmen, and the ignorance which until relatively recent times prevailed with respect to the value of Canada as a home for industrious people, retarded her material and political development. Isolated provinces, without common aspirations or national aims, had no influence over Imperial councils in matters which were arranged by English diplomatists solely; whilst the Federal Republic, a union of free self-governing states, had always in view the promotion of their national strength and territorial aggrandizement. England, Spain, France, Mexico, and Russia, in turn, contributed their share

share to her ambition; and more than once, when discontent reigned and hope was absent, the ability of Canada to hold her own on this continent, in the opinion of not a few, seemed to be steadily on the decline. But self-government in all matters of local concern changed the gloomy outlook to one of brightness and hope, and a spirit of self-reliance developed itself among statesmen and people, until Confederation united all the provinces in a Union which alone could enable them to resist the ambition of their restless neighbour. Forty-four States in 1890 with a population of over 62,000,000 of souls, against a population of 4,000,000 in 1790; with a total commerce of exports and imports to the value of \$1,400,000,000, against \$43,000,000 in 1790; with a national revenue of more than \$300,000,000, against \$41,000,000 in 1790, now represent the Federal Union, once composed of thirteen States, the basis of the nation's greatness. Despite all the powerful influences that have fought against Canada, she has held her own in America. In 1890 a population of 5,000,000 against 1,000,000 in 1840, with a total trade of \$230,000,000 against \$25,000,000 in 1840, and with a national revenue of nearly \$40,000,000 against \$700,000 in 1840, inhabit a dominion of seven regularly organized provinces and of an immense territory, now in course of development, stretching from Manitoba and Ontario to the foothills of the Rocky Mountains, and northerly to a great region watered by the Peace, Athabasca, Slave, and MacKenzie Rivers, and possessing a climate and soil, according to recent explorations, capable of supporting millions. This Dominion embraces an area of 3,519,000 square miles, including its water surface, or very little less than the area of the United States with Alaska, or a region with a width of 3,500 miles from east to west, and 1,400 miles from north to south. Its climate and resources are those of the Northern, Middle, and Western States. No dangerous question like slavery exists to complicate the political and social conditions of the Union; and although there is a large and increasing French Canadian element in the Dominion—the heritage of the old French régime in America—its history so far should not create fear as to the future except in the minds of sectarian and sectional pessimists who are too often raising gloomy phantoms of their own imaginings. While this element naturally clings to its national language and special institutions, yet it has, under the influence of a complete system of local self-government, taken as active and earnest a part as the English element in establishing and strengthening the confederation. The expansion of the African race in the Southern States is a question of the future for the Federal Republic which

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its statesmen will find much more difficult than any that Canadian statesmen have to solve on account of the existence of a French nationality who possess the lively intelligence of their race, exercise all the privileges of self-government, and, above all things, must comprehend that their true interests lie in a prosperous Canadian confederation, and not in union with a country where they would eventually lose their national identity. The Federal Union gives expansion to the national energies of the whole Dominion, and at the same time should afford every security to the local interests of each member of the federal compact. In all matters of Dominion concern, Canada is a free agent. While the Queen is still the head of the executive authority, and can alone initiate treaties with foreign nations—that being an act of complete sovereignty—and appeals are still open to her Privy Council from Canadian courts within certain limitations—it is an admitted principle that so far as Canada has been granted legislative rights and privileges by the Imperial Parliament—rights and privileges set forth explicitly in the British North America Act of 1867—she is practically sovereign in the exercise of all those powers as long as they do not conflict with treaty obligations of the parent State or with Imperial legislation directly applicable to her with her own consent. It is true that the Queen in council can veto Acts of the Canadian Parliament, but that supreme power is only exercised under the conditions just stated, and can no more be constitutionally used in the case of ordinary Canadian statutes affecting the Dominion solely, than can the Sovereign to-morrow veto the acts of the Imperial Parliament—a prerogative of the Crown still existent, but not exercised in England since the days of Queen Anne, and now inconsistent with modern rules of Parliamentary Government. In a limited sense there is already a loose system of federation between England and her dependencies. The Central Government of England, as the guardian of the welfare of the whole empire, co-operates with the several governments of her colonial dependencies, and by common consultation and arrangement endeavours to come to such a determination as will be to the advantage of all the interests at stake. In other words, the conditions of the relations between England and Canada are such as to ensure unity of policy as long as each Government considers the interests of England and the dependency as identical, and keeps ever in view the obligations, welfare, and unity, of the empire at large. Full consultation in all negotiations affecting Canada, representation in every arbitration and commission that may be the result of such negotiations, are the principles which have been admitted

admitted by England of late years in acknowledgment of the development of Canada and of her present position in the empire, and any departure now from so sound a doctrine would be a serious injury to the Imperial connexion and an insult to the ability of Canadians to take a part in the great councils of the world.

Canada then is no longer a mere Province, in the old Colonial sense of the term, but a Dominion possessing many of the attributes of a self-governing nation. Her past history is not that of a selfish people, but of one ever ready to make concessions for the sake of maintaining the most friendly relations between England and the United States. Every treaty that has been made with the United States has been more or less at the expense of some Canadian interest, but Canadians have yielded to the force of circumstances, and to reasons of national comity and good neighbourhood. Canada has been always ready to agree to any fair measure of reciprocal trade with her neighbours, but this paper has shown that all her efforts in that direction have been fruitless for years. The two political parties since 1867, the year of Confederation, have been avowedly in favour of reciprocity, and the differences of opinion that have grown up between them since 1879, when the present Government adopted a so-called National Policy or system of Protection, have been as to the extent to which a new treaty with the United States should go; whether it should be, generally speaking, on the basis of the Treaty of 1854, or a complete measure of unrestricted reciprocity, or, in other words, free trade in the manufactured as well as in the natural products of the two countries. This issue was formally raised at the general election which took place on the 5th of March last. At the very beginning of the contest the organs of the Government published an official communication, addressed by the Governor-General in December last to the Secretary of State for the Colonies, in which the desire is expressed for the opening up of negotiations with Washington for the purpose of arranging, if possible, a reciprocal measure of trade on the basis of 1854, 'with the modifications required by the altered circumstances of both countries,' and with such 'extensions' as are assumed to be 'in the interests of Canada and the United States,' as well as in the hope of coming to satisfactory conclusions with respect to the fisheries, the coasting trade, wreckage, and the boundary between Alaska and the Dominion. The leader of the Government, Sir John A. Macdonald, also issued an address in which he emphatically set forth the reasons why he claimed a continuance of the support he had received from the country since

since 1878. Having expressed his determination 'to build up on this continent, under the flag of England, a great and powerful nation,' he went on to vindicate the 'National Policy of his government as the source of the national and industrial development of Canada up to the present time, and to oppose the policy of "unrestricted reciprocity" on the ground that it must involve, among other grave evils, discrimination against the mother country, and inevitably result in the annexation of the Dominion to the United States.' In answer to this emphatic appeal of the veteran Prime Minister, Mr. Laurier, the leader of the Opposition, arraigned 'the National Policy upon every claim made in its behalf,' and defended the policy of his party, 'which is absolute reciprocal freedom of trade between Canada and the United States.' As to the charge that 'unrestricted reciprocity' would involve discrimination against England, he met it 'squarely and earnestly.' 'It cannot be expected,' he wrote, 'it were folly to expect, that the interests of a Colony should always be identical with the interests of the mother-land. The day must come when from no other cause than the development of the national life in the dependency, there must be a clash of interests with the mother-land; and in any such case, much as I would regret the necessity, I would stand by my native land.' He denied the proposition that 'the Canadian tariff would have to be assimilated to the American tariff, a proposition that involves discrimination against England.' In his opinion, 'reciprocity can be obtained upon an assimilation of tariffs, or upon the retention of its own tariff by each country.' The people of Canada, he believed, would not have reciprocity at the price of 'consequences injurious to their sense of honour or duty to themselves or the mother-land.' To the charge of the Prime Minister that unrestricted reciprocity is 'veiled treason,' he gave a negative in unmeasured terms.

With the minor party issues that have complicated this important contest for the political supremacy in Canada, we have nothing to do in this historical review of events affecting the relations of Canada and the United States. We have confined ourselves to a brief statement of the nature of the vital issue which has been directly submitted to the people of the Dominion. The result of the contest, after some weeks of heated controversy—and England can assuredly teach her dependencies nothing in this respect—has been, so far as we can judge from the data before us, to give Sir John Macdonald's ministry a majority over the whole Dominion of above thirty in a House of two hundred and fifteen members, against an average

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average majority of fifty in the last Parliament. The expression of public opinion in Canada appears to be decidedly in favour of some fair measure of trade with the United States, but the problem is whether the dominant party in that country under existing circumstances will be content with a moderate treaty on the basis of that of 1854, with such changes as will meet the later condition of things. As already indicated, while the present Government favour restricted reciprocity, they are pledged to maintain the general principles of the National Policy, and to agree to no measure that will discriminate against the parent State. The gravity of the political situation for some time to come must be intensified by the fact that, while the party of unrestricted reciprocity has been defeated in the Dominion as a whole, it has developed strength in the Provinces of Ontario and Quebec, where the total representation of one hundred and fifty-seven members is nearly divided between the Government and the Opposition, and it is obvious that the contest between the two commercial policies has but commenced. Looking at the question from the point of view of an impartial observer, we can see that Canada is entering upon a very critical period in her history. She has reached that stage when all the antagonistic elements, arising from those differences of nationality, geographical situation, and commercial interests, that exist in a Dominion stretching for three thousand five hundred miles between two oceans, must complicate its questions of government and require a careful, sagacious, and steady hand at the helm. Canadians are now practically the masters of their own destiny. From this time forward they have to face political, financial, and commercial problems, which it will require no ordinary statesmanship to solve wisely, and which must test to the very utmost their patriotism, their fidelity to an old and cherished connexion, and their ability to preserve their political autonomy on the continent, and build up a great and prosperous nation, always in close alliance, we trust, with England.

In the meantime, while the Canadian people are endeavouring to establish themselves firmly in America, it is earnestly to be hoped that any negotiations, which their Government may be able to enter upon with the authorities at Washington with the view of bringing about a settlement of all questions at issue between the two countries, will be eventually successful, now that a new and more liberal Congress has been elected by the people of the United States, and that the MacKinley Bill has been unequivocally condemned by the public opinion of the Republic. One thing is certain, and that is, the

the Canadian people, since 1866, have been taught the great lesson of self-reliance, and the necessity of developing all those qualities which are essential to the unity and security of their Dominion.* Conscious of the success that must be the reward of courage and energy, Canada is prepared to meet the difficulties of the future with confidence, and asks nothing from her great competitor except that consideration, justice, and sympathy, which are due to a people whose work on this continent has just begun, and whose achievements may yet be as remarkable as those of the great federation to their south. The same mysterious Providence, that has already divided the continent of America as far as the Rio Grande between Canada and the United States, and has in the past prevented their political fortunes becoming one, still forces the Canadian communities with an irresistible power to press onward until they realize those high conceptions which their statesmen and people already imagine for them in a not distant future; but whilst the stream of Canadian development refuses to turn aside from its natural channel and swell the current that is ever carrying forward the Federal Republic to so high a position among the nations, Canadians wish God-speed to their neighbours in their unparalleled career, and trust, as the months pass by, that the clouds which hang over the two countries may disappear, and a brighter prospect of continuous friendship may open before them both.

* The present Governor-General of Canada, Lord Stanley of Preston, speaking from the high standpoint of an English statesman, anxious for the welfare of Canada, has of late seized every opportunity that has offered itself of pressing upon the Canadians the necessity of cultivating this spirit of self-reliance, and of facing all the difficulties of the present and future 'in a manly and hopeful spirit.' Sympathetic speeches of this character keep alive an English feeling, and maintain the unity of the Empire.

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